Award FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Norman Hunsinger

Case Number: 11-03427

VS.

Respondents
New England Securities
Brian P. Carr
John R. Gerard

Hearing Site: Philadelphia, Pennsylvania

Nature of the Dispute: Customer vs. Member and Associated Persons

The case proceeded under the Optional All Public Panel Rule/ All Public Panel

REPRESENTATION OF PARTIES

For Claimant Norman Hunsinger: John R. Crayton, Esq., Moorestown, New Jersey.

For Respondent New England Securities ("New England"): Joshua Roberts, Esq., McCarter & English, LLP, Philadelphia, Pennsylvania.

Respondent Brian P. Carr ("Carr") did not appear at the hearing in this matter.

John R. Gerard ("Gerard") did not enter an appearance in this matter.

CASE INFORMATION

Revised Statement of Claim filed on or about: September 27, 2011. Reply to Respondent Carr's Further Answer filed on or about: April 4, 2012. Claimant signed the Submission Agreement: September 27, 2011.

Statement of Answer filed by Respondent New England on or about: January 30, 2012. New England signed the Submission Agreement: February 10, 2012.

Statement of Answer filed by Respondent Carr on or about: February 21, 2012. Further Answer filed by Respondent Carr on or about: March 16, 2012. Carr did not sign the Submission Agreement.

Respondent Gerard did not submit a Statement of Answer or sign the Submission Agreement.

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CASE SUMMARY

Claimant asserted the following causes of action: failure to supervise, failure to inform Claimant of disciplinary action against Carr, and breach of fiduciary responsibility. The causes of action relate to CarrMiller Capital, LLC Notes.

Unless specifically admitted in its Answer, Respondent New England denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Respondent Carr denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Revised Statement of Claim, Claimant requested compensatory damages in the amount of \$479,985.00, attorneys' fees, and costs in the amount of \$1,425.00.

At the close of the hearing, Claimant requested compensatory damages in the amount of \$284,500.00, \$49,817.25 in lost opportunity, closing costs on mortgage in the amount of \$11,295.00, future interest on mortgage in the amount of \$604,000.00, and attorneys' fees in the amount of \$6,207.62.

Respondent New England requested an award dismissing Claimant's claims, costs, and such other and further relief as deemed just and proper.

Respondent Carr requested an award dismissing Claimant's claims, costs, and such other and further relief as deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Carr has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code of Arbitration Procedure (the "Code").

Respondent Carr did not file with FINRA Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

Claimant initially filed a Statement of Claim on or about August 31, 2011. He filed a Revised Statement of Claim or about September 27, 2011 replacing the original Statement of Claim. The original Statement of Claim was not served on the Respondents and not considered by the Panel.

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By letter dated March 2, 2012, Claimant withdrew his claims against Respondent Gerard.

By letter dated April 22, 2013, Claimant withdrew his claims against Respondent New England.

Claimant, the only party to appear at the hearing, has agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1. Respondent Carr is liable for and shall pay to Claimant compensatory damages in the amount of \$284,500.00.
- 2. Respondent Carr is liable for and shall pay to Claimant settlement costs in the amount of \$3,937.50.
- 3. Respondent Carr is liable for and shall pay to Claimant attorneys' fees in the amount of \$6,207.50. The Panel awarded attorneys' fees pursuant to its finding of fraud as provided by statute.
- Respondent Carr is liable for and shall pay to Claimant \$300.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution.
- 5. Any and all relief not specifically addressed herein is denied.

<u>FEES</u>

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim: Initial Claim Filing Fee

=\$ 1,425.00

^{*}The filing fee is made up of a non-refundable and a refundable portion.

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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, New England Securities, is assessed the following:

Member Surcharge	=\$ 1,700.00
Pre-Hearing Processing Fee	=\$ 750.00
Hearing Processing Fee	=\$ 2,750.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing	session with the Panel @ \$1,	125.00	= \$ 1,125.00
Pre-hearing confere	nce: February 4, 2013	1 session	
One (1) Hearing ses	sion @ \$1,125.00		= \$ 1,125.00
Hearing Date:	September 10, 2013	1 session	
Total Hearing Session	on Fees		= \$ 2,250.00

The Panel has assessed the hearing session fees of \$2,250.00 to Respondent Carr.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

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Rafael A. Porrata-Doria, Jr.

ARBITRATION PANEL

Rafael A. Porrata-Doria, Jr. Robert F. Sanville Shelley J. Michaels	-	Public Arbitrator, Presiding Chairperson Public Arbitrator Public Arbitrator
I, the undersigned Arbitrator, do hereby and who executed this instrument which	affirm that I	am the individual described herein d.
Rafael A. Perrata Doria, Jr. Public Arbitrator, Presiding Chairperson		9/30/2013 Signature Date
Robert F. Sanville Public Arbitrator		Signature Date
Shelley J. Michaels Public Arbitrator		Signature Date
October 1, 2013		

Date of Service (For FINRA Dispute Resolution office use only)

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ARBITRATION PANEL

Rafael A. Porrata-Doria, Jr.	-	Public Arbitrator, Presiding Chairperson
Robert F. Sanville		Public Arbitrator
Shelley J. Michaels	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures

Rafael A. Porrata-Doria, Jr. Public Arbitrator, Presiding Chairperson	Signature Date
Tuble Arbitrator, Tresiding Charperson	
Rabutt Smith	9/27/2013
Robert F. Sanville	Signature Date
Public Arbitrator	
Shelley J. Michaels	Signature Date
Public Arbitrator	

October 1, 2013

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ARBITRATION PANEL

Rafael A. Porrata-Doria, Jr. Robert F. Sanville Shelley J. Michaels	- F	Public Arbitrator, Presiding Chairperson Public Arbitrator Public Arbitrator
I, the undersigned Arbitrator, do hereb and who executed this instrument which		the individual described herein
Concurring Arbitrators' Signatures		
Rafael A. Porrata-Doria, Jr. Public Arbitrator, Presiding Chairperso	n	Signature Date
Robert F. Sanville		Signature Date
Public Arbitrator	Λ	0 1
Shelley J. Michael Shelley J. Michaels () Public Arbitrator		Signature Date

October 1, 2013

Date of Service (For FINRA Dispute Resolution office use only)